

In the Supreme Court of the United States

OCTOBER TERM, 1947

No. 829

CLARA SHAPIRO, PETITIONER

v.

ANNETTE SHAPIRO AND UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS FOR
THE SECOND CIRCUIT*

MEMORANDUM FOR THE UNITED STATES

This case involves a dispute between petitioner, the mother of a deceased veteran, and respondent, his wife, as to the disposition of the proceeds payable by the Government under a \$10,000 policy of life insurance issued to the deceased under the National Service Life Insurance Act. Claims with the Veterans Administration had been filed by both the mother and the widow. Since the mother was the last-named beneficiary under the policy and no communication had been received by the Veterans Administration changing the beneficiary, the Vet-

erans Administration held that the mother was the beneficiary and denied the claim of the widow.

Suit for the proceeds of the insurance was brought by the insured's widow against the United States in the United States District Court for the Southern District of New York. The widow based her claim on the contention that the insured had expressed an intention to change the beneficiary originally named in his policy, to make her the beneficiary, and had done affirmative acts to effectuate that intention. The United States admitted its liability for the payment of \$10,000 under the insurance contract, but it asserted that the mother had likewise claimed the proceeds of the insurance contract and requested that the mother be interpleaded, that the dispute between the widow and the mother be determined by the court, and that in any event any judgment entered should be subject to a deduction of \$1,349.90 theretofore paid by the Veterans Administration to the mother, Clara Shapiro. The mother thereafter answered, asserting her claim to the proceeds of the insurance contract.

The district court held that the widow, the respondent herein, was entitled to the proceeds of the insurance policy, subject to a deduction in the amount of \$1,349.90 theretofore paid by the Veterans Administration to the mother. The judgment of the district court was affirmed by the court below. Inasmuch as the determination of the proper beneficiary in this case is essentially a fac-

tual one, and the Government has no interest in the controversy other than to pay the insurance admittedly due to the proper beneficiary, the Government in effect occupies the role of a stakeholder and therefore takes no position as to whether the writ of certiorari should issue.

Respectfully submitted.

PHILIP B. PERLMAN,
Solicitor General.

JUNE 1948.